

Order

Michigan Supreme Court
Lansing, Michigan

June 7, 2006

Clifford W. Taylor,
Chief Justice

128601
& (74)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

MICHAEL DOUGLAS SMITH, JR., as
Personal Representative of the Estate of
Shannon Louise Randolph, Deceased,
Plaintiff-Appellee,

v

SC: 128601
COA: 251066
Wayne CC: 02-235928-NO

THOMAS RANDOLPH, JR.,
Defendant-Appellant.

By order of July 8, 2005, this Court granted immediate consideration and stayed the trial court's June 22, 2005 order and all trial court proceedings. On order of the Court, the application for leave to appeal the March 24, 2005 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. Pursuant to MCR 7.302(G)(1), we VACATE the Wayne Circuit Court's April 14, 2005 default and default judgment and June 3, 2005 order denying defendant's motion to set aside the default. Under MCR 7.302(C)(5)(a), an appeal to this Court from a judgment of the Court of Appeals remanding for further proceedings stays proceedings on remand, unless the Court of Appeals or this Court orders otherwise. Accordingly, the trial court had no authority to conduct a settlement conference or otherwise prepare for trial, and its actions were directly contrary to the Court of Appeals holding that defendant is entitled to a jury trial on the issue of damages. The July 8, 2005 stay of trial court proceedings is DISSOLVED. We REMAND this case to the Wayne Circuit Court for trial on the issue of damages.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 7, 2006

Corbin R. Davis

Clerk